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LETTER DATED 1 JULY 1998 FROM THE PERMANENT REPRESENTATIVE OF THE LIBYAN ARAB JAMAHIRIYA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

With reference to the forthcoming nineteenth review by the Security Council of the sanctions imposed on the Libyan Arab Jamahiriya since 1992 owing to its dispute with the United States of America and the United Kingdom concerning legal jurisdiction in the trial of the two suspects in the incident in which Pan Am flight 103 was blown up over Lockerbie in 1988, the Libyan Arab Jamahiriya wishes to draw the attention of the members of the Security Council to the following facts:

First: Sanctions were imposed on the Libyan Arab Jamahiriya on the basis of mere suspicion against two of its citizens. In other words, since sanctions were imposed on the basis of doubts and not facts, they are unjustified.

Secondly: My country has dealt with the suspicion against its citizens in the framework of the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, to which it had already acceded, as had the United States of America and the United Kingdom, when the incident took place and when the suspicion was declared.

Thirdly: The judicial authorities in my country called upon their counterparts in the two concerned States to cooperate with them within the framework of the Montreal Convention and they refused.

Fourthly: The Libyan Secretary for Foreign Liaison asked the Secretary of State of the United States of America and the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom for the cooperation of their countries in accordance with article 14 of the Montreal Convention and they refused.

Fifthly: The Libyan Arab Jamahiriya submitted various proposals to the Security Council; if these had been accepted, a just and equitable solution that took into consideration the interests of all parties would have been reached from the outset, as proved by the Libyan cooperation with the French authorities.

Sixthly: In the light of the refusal by the United States of America and the United Kingdom to comply with their obligations under the Montreal Convention, my country had no alternative but to resort to the International Court of Justice in accordance with the provisions of the Convention and in view of the fact that the International Court of Justice is the principal judicial organ of the United Nations.

Seventhly: Pursuant to Article 33 of the Charter of the United Nations, my country resorted to regional and international organizations, requesting the use of their good offices in the negotiation, investigation, mediation, reconciliation and judicial settlement of the dispute. The League of Arab States, the Organization of African Unity and the Movement of Non-Aligned Countries put forward several initiatives and proposals, all of which were rejected by the United States of America and the United Kingdom.

This sanctions review is of great importance in the eyes of the international community because of the significant developments which have recently taken place in connection with the legal and political handling of the dispute. These developments can be summarized as follows:

1. The International Court of Justice rendered two judgments on 27 February 1998 determining the existence of a legal dispute between the Libyan Arab Jamahiriya, on the one hand, and the United States of America and the United Kingdom, on the other hand, concerning the interpretation and application of the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, a dispute which the Court is competent to consider in accordance with the provisions of the Convention. These two judgments are a legal affirmation of the positions expressed by the international community, represented in its regional and international organizations, that the dispute is of a purely legal nature and should be resolved in a legal forum.

On that basis, the sanctions imposed under Security Council resolutions 748 (1992) and 883 (1993) are now without merit, as the International Court of Justice, which has jurisdiction, is considering the basis of these resolutions.

2. The Security Council convened a meeting on 20 March 1998 to consider the dispute in the light of the two judgments of the International Court of Justice. During the meeting, the majority of Member States, on whose behalf the Security Council is supposed to act, in accordance with Article 24 of the Charter of the United Nations, affirmed that the imposition of sanctions against a party to a legal dispute in support of demands submitted by the other parties was unjustified. They called for the sanctions to be lifted and for a peaceful settlement to the dispute to be reached. They also stressed their objection to the Security Council's routine renewal of the sanctions every 120 days.

3. Over 100 days have elapsed since that meeting, and the majority of Member States are still awaiting the Council's response to their requests. That is time enough for those States, which offered the pretext of lack of time to study the two judgments of the International Court of Justice to have now done so. It

is also ample time for the Security Council to have considered the positions expressed by the international community in that meeting.

4. At the Ministerial Meeting of the Movement of Non-Aligned Countries, held in Cartagena, Colombia, from 18 to 20 May 1998, the Ministers welcomed the two judgments of the International Court of Justice and called for the immediate suspension of the sanctions imposed on the Libyan Arab Jamahiriya. They recommended that the Twelfth Summit Conference of the Movement of Non-Aligned Countries should adopt a decision not to comply with the resolutions on sanctions if the two States concerned did not respond favourably to the proposals submitted by the League of Arab States, the Organization of African Unity, the Movement of Non-Aligned Countries and the Organization of the Islamic Conference by the time of the nineteenth review of the sanctions.

5. The Assembly of Heads of State and Government of the Organization of African Unity, held in Ouagadougou, Burkina Faso, from 8 to 10 June 1998, adopted a resolution calling for the lifting of the sanctions imposed on the Libyan Arab Jamahiriya and decided not to comply with the sanctions, with effect from September 1998, if the United States of America and the United Kingdom failed to respond favourably to the proposal to try the two suspects in a third, neutral country.

The Libyan Arab Jamahiriya alone has implemented the principles of international law and international agreements and it alone has implemented and complied with the Charter of the United Nations with a view to settling its dispute with the United States of America and the United Kingdom, having:

1. Complied with the provisions of the Montreal Convention of 1971;

2. Called for resolution of the dispute over the interpretation and application of the Montreal Convention by the peaceful means stipulated in the Charter of the United Nations and the Montreal Convention;

3. Accepted the initiatives advocated by regional and international organizations for the peaceful resolution of the dispute;

4. Sought recourse to the International Court of Justice, which established that the dispute over Lockerbie is a legal dispute and that the Court has competence to examine it.

By contrast, the United States of America and the United Kingdom refused to comply with their contractual obligations under international law and international agreements, in particular the 1971 Montreal Convention, the Charter of the United Nations and the Statute of the International Court of Justice. The two States also rejected all the initiatives and options advanced by international and regional organizations for resolving the dispute.

The whole world is now aware that continuation of the sanctions will only worsen the humanitarian situation in the Libyan Arab Jamahiriya, exacerbate the suffering of the families of the victims and prolong their period of waiting. The sanctions will benefit no one in the long run; on the contrary, they will

have a reverse impact and generate feelings of bitterness and injustice, in addition to loss of confidence in the United Nations and in particular the Security Council.

It is of the utmost importance that the Security Council should leave the legal dispute to the competent United Nations organ (the International Court of Justice) and devote its time to dealing with issues which genuinely threaten international peace and security.

On the basis of the above, the Libyan Arab Jamahiriya calls upon the Security Council to:

First: Comply with the two judgments of the International Court of Justice and the will of the international community by lifting the sanctions imposed on the Libyan Arab Jamahiriya by resolutions 748 (1992) and 883 (1993);

Secondly: Affirm the right of the Libyan Arab Jamahiriya to compensation for the material and moral losses and damages which it has suffered as a result of the two above-mentioned resolutions;

Thirdly: Urge the parties concerned to reach a solution to the dispute through one of the peaceful means stipulated in the Charter of the United Nations and the Montreal Convention, or await the decision of the International Court of Justice.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(Signed) Abuzed O. DORDA
Ambassador
Permanent Representative